Petition

81-788

No.

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OCT 26 1981
ALEXANDER L. STEVAS,
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

ANTHONY M. GERARD
and
CAROLYN J. GERARD,
Petitioners,

versus

STATE OF LOUISIANA,
Respondents.

On Petition for Writ of Certiorari to the Supreme Court of Louisiana

---

PETITION FOR CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

The questions presented for review are:

(1) Whether a deputy sheriff can enter a private home and club the occupants when he has no probable cause and no warrant;

(2) Can a householder be found guilty of Resisting Arrest when he has been the victim of an attack in his own home and when the crime of not having a dog license can not be proved according to the testimony of the state's witness;

(3) Can a citizen be found guilty of not having a dog license when the state's own witness, the man in charge of the Dog Pound, admits that local authorities had no way nor method of determining if any given dog was licensed or not;

(4) Can a dog ordinance which allows warrantless entry into private homes stand?

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED FOR REVIEW..... i

TABLE OF CONTENTS..... iii

TABLE OF AUTHORITIES..... iii

OPINIONS OF LOWER COURTS AND TRIBUNALS..... 2

JURISDICTIONAL GROUNDS..... 3

STATUTES INVOLVED..... 4

STATEMENT OF THE CASE..... 4

ARGUMENT..... 8

CONCLUSION..... 12

CERTIFICATE OF SERVICE..... 14

APPENDIX..... 1a

TABLE OF AUTHORITIES

Cases:

Camara v. Municipal Court, 87 S. Ct. 1727 (1967).....8, 12

Frank v. State of Maryland, 79 S. Ct. 804 (1959).....8, 9

TABLE OF AUTHORITIES (Continued)

Klutz v. Beam, United States Dist. Ct. W. Dist., North Carolina, Charlotte Div., 1973, 374 F. Supp. 1129.....9, 12

See v. City of Seattle, 87 S. Ct. 1737 (1967).....9, 12

White v. Morris, S. Ct. of La., 345 So. 2d 461 (1977) Reh. Den..... 11

Other Authorities:

Constitution of the United States, Amendment IV.....4, 12

Constitution of the United States, Amendment V.....4, 12

Louisiana Constitution of 1974, Article 2, Section 2..... 12

28 U. S. C., Section 1257(3)..... 3

28 U. S. C., Section 2101..... 3

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OPINIONS OF LOWER COURTS AND TRIBUNALS

1. Decision of Second Parish Court, Parish of Jefferson, State of Louisiana dated February 8, 1979, without a jury, Hon. John J. Molaison, Judge, entitled: "STATE OF LOUISIANA versus CAROLYN J. GERARD" No. 123575, and "STATE OF LOUISIANA versus ANTHONY GERARD" No. 123576. The two cases were consolidated for opinion, consolidated for trial. (Appendix A)

2. Opinion of Twenty Fourth Judicial District Court, Parish of Jefferson, Hon. Fred Bowes, Judge, dated August 29, 1979, entitled: "STATE OF LOUISIANA vs. CAROLYN J. GERARD and ANTHONY GERARD" Nos. 202 and 203, consolidated, Div. "E". (Appendix B)

3. Decision by Louisiana Supreme Court on Application for Remedial Writs, dated September 9, 1981, entitled: "STATE OF LOUISIANA vs. ANTHONY H. GERARD and CAROLYN J. GERARD" NO. 67,135. (Appendix C)

JURISDICTIONAL GROUNDS

The jurisdiction of this Court is invoked pursuant to U.SC 28:2101 and USC 28:1257(3). Petitioner seeks to review the decision of the Louisiana Supreme Court in its September 9, 1981 refusal of application for remedial writs. Petitioners Gerard were tried for alleged offenses committed after a deputy sheriff and a dogcatcher entered their home without a warrant in search of a children's pet 10-pound mutt named Ding-a-Ling.

STATUTES INVOLVED

The basis for this petition is that the Gerards were denied Fourth Amendment Rights against unreasonable search and seizure. They ask that Jefferson Parish Ordinance Number 12146 (Animal Shelter Ordinance) be found to be unconstitutional in that it allows search and seizure without warrant in violation of the Fourth Amendment.

STATEMENT OF THE CASE

On Thursday, February 23, 1978, when the children were returning home from school about 4:00 p.m. in Avondale Subdivision, Jefferson Parish, Louisiana, Parish Dogcatcher Robert Kerry came to the Gerard home and had words with Gerard about Ding-a-Ling,

a children's pet 10-pound mutt which lived in the home and in a fenced back yard. Kerry demanded the dog and Gerard refused, saying he had a vaccination certificate and that the dog would catch diseases and die from the associations with other animals at the pound. Kerry called a Jefferson Parish deputy sheriff who advised him that all he was allowed to do was to issue a citation to Gerard. He did this and left. This prosecution was subsequently dropped.

On Sunday, February 26, 1978, at 8:00 a. m., Kerry returned to the Gerard home and was met at the door by one of the children, who asked him to return later when his parents would be up.

A few minutes later he returned with Jefferson Parish Deputy Sheriff J. Koehler. The deputy engaged in an

argument with Gerard, who stood in the doorway with only his pajama trousers on. Koehler entered the house and stalked Gerard about the living room. Four young children were present as was Mrs. Gerard who kept asking Koehler to leave as he had no warrant.

At length Koehler hit Gerard a heavy blow to the brow with his club. This was to later require eight stitches to close. He then jabbed Mrs. Gerard in the abdomen with the club and departed.

A few minutes later, about ten police cars appeared, cordoned off the street and demanded through loudspeakers on the police cars that Gerard exit the house. After a few minutes the police stormed the house and broke in through a side door. They found the two toddlers less than three years of age; a ten-year-old; an eight-year-old; and a terrified sixteen-year-old hiding in

her bedroom; Gerard sitting on his bed with a pack of ice on his head and his wife beside him frantically trying to reach the lawyer by phone.

The Gerards were arrested and led from the house handcuffed and in their nightclothes. Tony Gerard was taken first to West Jefferson Hospital where his brow was closed with the placement of eight stitches where the deputy had hit him with the club. He had asked to go to Ochsner Hospital, where he was a hepatitis patient, but the request was denied. Mrs. Gerard was taken direct to jail where she was showered, disinfected and placed in a cell. Both were released later in the same day.

Gerard returned to his work as an advertising salesman. Two weeks later he had an attack that was diagnosed by LSU Medical School neurologist Dr. Robert Strub as traumatic epilepsy. In 1981

Memphis, Tennessee psychiatrist Dr. Roy Barnes said that Gerard would suffer a lifelong disability caused by the twin trauma of being hit in the head by the deputy and by fear of a repetition of the warrantless invasion of his home by the dog-catcher.

ARGUMENT

In 1967 CAMARA v. MUNICIPAL COURT, 87 S. Ct. 1727 over-ruled FRANK v. STATE OF MARYLAND, 79 S. Ct. 804. FRANK stood for federal constitutional approval of warrantless search of private homes by local government health and safety inspectors.

In CAMARA a building inspector, at work under city law, entered a building without warrant. The Court

ruled that FRANK was no longer law and that the man who did local government inspections must have a warrant.

In SEE v. CITY OF SEATTLE, 87 S. Ct. 1737, 1967, the forbidden act was a warrantless fire inspection of a warehouse. (emphasis supplied) In 1973 a warrantless inspection of a boat's plumbing by state inspectors was found to be unconstitutional. KLUTZ v. BEAM, 374 F. Supp. 1129.

In 1978 all of the injunctions against warrantless search were ignored when a deputy sheriff and a dogcatcher entered a home with no warrant to search for a dog they claimed was not vaccinated. And it must be remembered that the head of the Dog Pound said under oath that

at the time of the incident in February, 1978 the parish had no way to tell if the Gerard dog had shots or not. (Tr.42, in testimony of I. R. Collord) The dog-catcher, who had already issued a citation to Gerard, brought in a deputy who entered the Gerard home without a warrant. This was done in search of a children's pet 10-pound mutt. In the process he dealt Gerard a lifelong injury with his club and punched Mrs. Gerard in the abdomen.

The trial court found the Gerards guilty of not having a dog license. The owner claimed Ding-a-Ling had been vaccinated.

Mr. Collord, a witness for the state and chief of the Dog Pound, said that the parish had no way to tell if the dog had received shots.

Considering the Collord testimony, it was not possible to find the Gerards to be Guilty of not having a vaccination for the dog.

As to the Guilty finding in the Resisting Arrest Charge, the Gerards submit to the Court White v. Morris, Supreme Court of Louisiana, 1977, 345 So. 2d 461. This case arose from an incident in a shopping center in rural central Louisiana. Two deputies began a search of several youths in the shopping center about midnight. One struck a deputy in the face and that officer filed a civil action against the young man. The Court held that a citizen has a right to resist an unlawful arrest. If the parish had no way to tell if the dog had shots then it follows that the deputy had no probable cause to make the invasion of Gerard's home nor to arrest him.

It also follows that the Jefferson Parish Animal Shelter Ordinance Number 12146 cannot be constitutional when it allows a parish employee to enter a home without a warrant to search for animals. (APPENDIX 13a)

To allow a parish department employee such authority is a direct violation of Louisiana Constitution, Art. 2, Sec. 2, as well as a violation of the due process and illegal search sections of the United States Constitution. See also CAMARA v. MUNICIPAL COURT; SEE v. SEATTLE, and KLUTZ v. BEAM, cited above.

CONCLUSION

It is respectfully requested that the Court grant a Writ of Certiorari and review the decision of the Supreme

Court of Louisiana, which affirmed the opinion of the 24th Judicial District Court, State of Louisiana, in approval of the 2d Parish Court, Parish of Jefferson, State of Louisiana, conviction of the Gerards for allegedly not having their dog Ding-a-Ling vaccinated and for resisting arrest. Jefferson Parish Ordinance No. 12146 should be found unconstitutional.

Respectfully submitted,

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and
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CERTIFICATE

The undersigned counsel of record certifies that service has been made by placing three copies of the foregoing petition in the U. S. Mail, postage prepaid on all parties required to be served listed below on this 23d day of October, 1981.

Hon. John Mamoulides, District Attorney, Courthouse, Gretna, Louisiana, 70053

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Attorney for Carolyn and Anthony Gerard

APPENDIX A

SECOND PARISH COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

STATE OF LOUISIANA	Criminal Action
VS.	No. 123-575
ANTHONY H. GERARD	Charges: Simple Battery, etc.

CONSOLIDATED WITH

STATE OF LOUISIANA	Criminal Action
VS.	No. 123-576
CAROLYN J. GERARD	Charges: Refusal to turn over Animal to shelter

Testimony taken in Open Court, in the above entitled and numbered cause, before the Honorable John J. Molaison, Judge, on Tursday, February 8, 1979.

APPEARANCES:

WILLIAM C. CREDO, III, ESQ. FOR THE STATE

HUGH G. OLIVER, ESQ. FOR THE DEFENSE

Reported by: Gwen Z. DeLatte, O.C.R.

Transcribed by: Ray W. Henning, O.C.R., C.S.R.

TRANSCRIPT PAGE NO. 184:

THE COURT:

Very well. Mr. Anthony Gerard, you're charged with Number One, Jefferson Parish Ordinance No. 12146, Subsection 3, in that you refused to turn an animal over to the Jefferson Parish authorities, in accordance with the ordinance, to the shelter. I find you guilty.

Count Number Two, in violation of Ordinance No. 13146, Subsection 3, no dog license or

vaccinations, I find you guilty.

On Title 14, Subsection 35, committing a battery on the officer, I find you not guilty.

Count Number Four, Title 14, Subsection 108, resisting arrest, I find you guilty.

And Title 14, Subsection 56, simple criminal damage to property, I find you not guilty.

Mrs. Carolyn J. Gerard, Jefferson Parish Ordinance 12146, Subsection 3, refusing to turn an animal over to the shelter, I find you guilty.

TRANSCRIPT PAGE 185:

Count Number Two, Jefferson Parish Ordinance Number 12146, Subsection 3, no dog license or vaccination, I find you guilty.

Count Number Three, Title 14, Subsection 35, committing a simple battery, I find you not guilty.

Count Number Four, Title 14, Subsection 108, resisting arrest, I find you not guilty.

Count Number Five, Title 14, Subsection 56, criminal damage to property, I find you not guilty.

Are you ready for sentencing, Mr. Oliver?

APPENDIX B

TWENTY FOURTH JUDICIAL DISTRICT COURT

PARISH OF JEFFERSON

STATE OF LOUISIANA

STATE OF LOUISIANA	Appeal No. 202
VS.	FROM SECOND
ANTHONY H. GERARD	PARISH COURT
- - - -	
STATE OF LOUISIANA	Appeal No. 203
VS.	FROM SECOND
CAROLYN J. GERARD	PARISH COURT
	#123576

OPINION

In his assignment of error, defendant contends that the Court below erred as a matter of law in finding defendant guilty of resisting arrest because defendant was merely resisting an unlawful arrest. In support of this argument, defendant cites New Orleans v. Lyons, 342 So. 2d 196 (La. 1977)

The Court finds no error of law in the ruling of the trial court. R. S. 14:108 gives the definition of resisting an officer:

> 108. Resisting an officer
>
> Resisting an officer is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.
>
> The phrase "obstruction of" as used herein shall, in addition to its common meaning, signification and connotation mean:

(a) Flight by one sought to be arrested before the arresting officer after notice is given that he is under arrest.

(b) Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

(c) Refusal by the arrested party to give his name and make his identity known to the arresting officer.

(d) Congregates with others on a public street and refuses to move on when ordered by the officer.

Whoever commits the crime of resisting an officer shall be fined not more than five hundred

dollars or be imprisoned for not more than six months, or both.

It is clear from the testimony that defendant intentionally opposed and resisted officer Koehler of the Jefferson Parish Sheriff's Office while in his uniform and acting in his official capacity, who had advised the defendant that he would have to arrest him unless he released the dog as required by law. I.e, defendant errs in placing emphasis on the "lawful arrest" portion of R.S. 14:108; rather the resisting an officer arose because the defendant knew that the officer was attempting to enforce the law while acting in his official capacity.

Accordingly, this Court finds that the Trial Court correctly con-

cluded that the defendant was resisting a lawful arrest.

Defendant also contends that Jefferson Parish Ordinance No. 12146 is unconstitutional because it doesn't allow due process for notice, and that it is vague.

The Louisiana Supreme Court in State vs. DeVall, 302 So 2d 909 has stated:

"The proposition that a statutory enactment by the legislature is presumed to be constitutional requires no citation of authority. It is also fundamental that the burden is upon the party claiming the unconstitutionality to show that the classification of the statute has no rational basis. State v. Brown, 288 So 2d (La. 1974). Sevin v. Louisiana

Wildlife and Fisheries Commission, 283 So 2d 690 (La. 1973). Thus, when a court can reasonably do so, it will construe a statute so as to preserve its constitutionality. Pearce ex rel.Structural Pest Control Commission v. Sharbino, 254 La. 143, 223 So 2d 126 (1969)."

See also State v. Gisclair, 363 So 2d 696 (La. 1978) and State v. Everfield, 342 So 2d 648 (La. 1977).

As the defendant has not introduced any evidence (nor given any law) to support the contentions that the statute is vague, and violative of due process, this assignment of error lacks merit, and this Court finds that the ordinance is constitutional.

Accordingly, for the reasons assigned, the judgment of the trial court is affirmed.

Gretna, Louisiana, this 29th day of August, 1979.

s/ Fred Bowes, Judge

Fred Bowes

APPENDIX C

THE SUPREME COURT OF THE STATE

OF LOUISIANA

STATE OF LOUISIANA 67,135

versus

ANTHONY H. GERARD and

CAROLYN J. GERARD

In. Re: Anthony H. Gerard

and Carolyn J. Gerard applying

for Remedial Writs, Parish of

Jefferson, Nos. 123-575 and

123-576.

September 9, 1981

Denied

HTL
JAD
PFC
WFM
JLD
FAB
JCW

Supreme Court of Louisiana

September 9, 1981

s/ Frans J. Labranche, Jr.
Clerk of Court for the Court

JEFFERSON PARISH ANIMAL CONTROL AND WELFARE ORDINANCE NO. 12146, Sec. 3.611 -

Whenever animals are kept within any building or on any premises without food, water or proper care and attention, or are kept in violation of the provisions of this ordinance, or are infected with disease, or kept under conditions which could endanger public health or create a nuisance, it shall be the duty of any authorized employee of the Department, or any person issued and authorized to wear the Animal Shelter Badge, to enter said building or premises to take possession of and remove said animals so abandoned or neglected. Animals and birds so impounded shall not be released before the reason for causing said impoundment has been corrected.

Opposition

NO. 81-788

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

ANTHONY M. GERARD and CAROLYN J. GERARD
Petitioners

VERSUS

STATE OF LOUISIANA,
Respondents

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF LOUISIANA

BRIEF FOR THE STATE OF LOUISIANA IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether or not the defendants' constitutional rights were violated by a warrantless entry into their home pursuant to State enforcement of local animal shelter ordiance.

2. Whether or not the trial court had sufficient evidence beyond a reasonable doubt on which to base finding of guilt.

TABLE OF CONTENTS

Page

Questions Presented i

Table of Contents ii

Table of Authorities iii

Opinions Below 1

Jurisdiction 1

Constitutional Provision Involved 1

Local Statute Involved 1

Statement of the Case 2

Reasons For Denying the Writ 4

Conclusion 6

Certificate of Service 7

TABLE OF AUTHORITIES

Page

Cases:

State v. Gerard and Gerard, 404 So. 2d 272 (1981) 1, 3

Delaware v. Prouse, 440 U.S. 648 (1979) 4

Camara vs. Municipal Court, 387 U.S. 523, 539 (1967) 4

Fox Film Corp. vs. Muller, 296 U.S. 207 (1935) 5

Hall vs. Wainwright, 493 F.2d 37 (CA 5, 1974) 5

Stone v. Powell, 428 U.S. 465, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976) 5

Swicegood vs. Alabama, 577 F.2d 1322, 1324-25 (5th Cir. 1978) 5

Williams vs. Brown, 609 F.2d 216 (5th Cir. 1980) 5

O'Berry vs. Wainwright, 546 F.2d 1204 (5th Cir. 1977) cert. denied, 433 U.S. 911, 97 S. Ct. 2981, 53 L. Ed 1096 (1977) 5

OPINIONS BELOW

The opinion of the Supreme Court of Louisiana is reported as *State of Louisiana v. Gerard and Gerard,* (No. 67,135) 404 So. 2d 272 (Case no. 1) (September 9, 1981) and is set out in Appendix C. of the petitioner's brief at page 12 a. *See also* written reasons for judgment at Appendix B of petitioner's brief at page 5 a, by the trial judge dated August 29, 1979.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

CONSTITUTIONAL PROVISION INVOLVED

The Fourth Amendment to the United States Constitution.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

LOCAL STATUTE INVOLVED

JEFFERSON PARISH ANIMAL CONTROL AND WELFARE ORDINANCE NO. 12146 Sec. 3.611:

> Whenever animals are kept within any building or on any premises without food, water or proper care and attention, or are kept in violation of the provisions of this ordinance, or are infected with disease, or kept under conditions which could endanger public health or create a nui-

sance, it shall be the duty of any authorized employee of the Department or any person issued and authorized to wear the Animal Shelter Badge, to enter said building or premises to take possession of and remove said animals so abandoned or neglected. Animals and birds so impounded shall not be released before the reason for causing said impoundment has been corrected.

STATEMENT OF THE CASE

"Ding-a-Ling", a ten pound mutt, the family pet, was the subject of the defendants' convictions for unlawful refusal to turn over their animal to the Animal Shelter after the dog had been investigated for several days, unlawfully not having a license and proof of vaccination of their dog, and as to Anthony Gerard, also resisting arrest. Anthony Gerard was fined $100.00 and $71.75 costs as well as 30 days in jail, which was suspended. Carolyn Gerard was fined $25.00 and $71.75 costs, and apparently sentenced to serve 30 days in jail.

On February 23, 1978 Robert M. Kerry of the Jefferson Parish Animal Shelter investigated complaints that the Gerard's dog, Ding-a-Ling was running at large and was neither licensed nor vaccinated. The Gerards were issued a citation at that time. On February 26th, Mr. Kerry returned to inquire whether the Gerard's dog had been licensed or vaccinated. Anthony Gerard stated that the dog was not there, despite the fact that Mr. Kerry had seen the dog in the back yard. The defendants refused to turn the dog over. Mr. Kerry contacted Sergeant Joseph Koehler of the Jefferson Parish Sheriff's Office, who came to assist him. Sergeant Koehler informed Mr. Gerard that if he refused to turn the dog over, he would have to be placed under arrest. The defendant said, "Go ahead and arrest me." When Sergeant Koehler attempted to place the defendant

under arrest, a scuffle ensured which resulted in Sergeant Koehler being dragged into the defendant's house. (The defendant at that time weighed approximately 300 pounds). When the defendant made motions to hit the Sergeant, Sergeant Koehler struck the defendant once with his mightstick. The defendant then threw Sergeant Koehler out of the house and locked the door. When Sergeant Koehler heard someone shout from inside the house, "Stand by the window with a shotgun," (after having been thrown out of the house), he called for assistance from his patrol car. Several police units responded to the call, and both defendants were arrested. During the scuffle with the defendant, Sergeant Koehler's wristwatch had been damaged.

Bills of information were filed on March 31, 1978 charging both defendants with COUNT ONE: violation of Jefferson Parish Ordinance No. 12146.3 for unlawful refusal to turn over the dog to the Animal Shelter after the dog had been investigated for several days; COUNT TWO: violation of Jefferson Parish Ordinance No. 12146.3 for unlawfully not having license or proof of vaccination of the dog; COUNT THREE: battery of Sergeant Koehler; COUNT FOUR: resisting an officer of the law; COUNT FIVE: criminal damage to property.

Trial was held February 8, 1978 before Honorable John J. Molaison, Judge presiding. The defendants were represented by Hugh G. Oliver, Esq., and the prosecuting attorney was William C. Credo, III., Assistant District Attorney.

Anthony Gerard was found guilty on Counts 1, 2 and 4 and Carolyn Gerard was found quilty on counts 1 and 2.

An appeal to the Twenty-Fourth Judicial District Court affirmed the conviction on August 29, 1979.

The Louisiana Supreme Court denied writs on September 9, 1981 as reported at ***State v. Gerard and Gerard***, 404 So. 2d 272 (Case No. 11).

REASONS FOR DENYING THE WRIT

THE WRIT SHOULD BE DENIED BECAUSE POLICE HAD SUFFICIENT PROBABLE CAUSE TO ENTER THE RESIDENCE, AND "EXIGENT CIRCUMSTANCES" REQUIRED IMMEDIATE SEIZURE OF THE DOG

The only requirement for the initial approach to the residence it that it be legitimately related to the enforcement of the ordinance. ***Delaware v. Prouse***, 440 U.S. 648 (1979). In the instant case, when the police were advised that the dog was not either licensed or vaccinated and were denied access to the animal, the police could legitimately seize the dog. Especially here, where defendants resisted the police efforts to get to the dog and where the defendants threatened the police, probable cause of a violation was evident.

Searches of private property have been upheld to enforce game or agriculture regulations. ***Wamser vs. State***, 600 p. 2d 1359 (Alas. 1979).

This Court stated in ***Camara vs. Municipal Court***, 387 U.S. 523, 539 (1967) that "nothing we say today is intended to foreclose prompt inspections, even without a warrant, that the law has traditionally upheld in emergency situations." Among the situations cited by the Court in which sufficient emergency is involved to justify foregoing the warrant requirement was compulsory vaccinations. Otherwise petitioners' cite of ***Camara, supra*** is not applicable where ***Camara*** involved a routine area inspection that could have been done at anytime. There was no compelling urgency as in the instant case.

In regard to other allegations of police misconduct, it is submitted nothing alleged arises to a constitutional level. It is a well-established principle of federalism that a state decision resting on an adequate foundation of state substantive

law is immune from review in the federal courts. ***Fox Film Corp. vs. Muller,*** 296 U.S. 207 (1935). The determination of state law by the courts of that State is binding upon federal courts. ***Hall vs. Wainwright,*** 493 F.2d 37 (CA 5, 1974).

Lastly, under ***Stone v. Powell,*** 428 U.S. 465, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976), a state prisoner can raise a Fourth Amendment claim in federal habeas corpus proceeding only upon a showing that the state failed to provide him with an opportunity for a full and fair litigation of his claim.

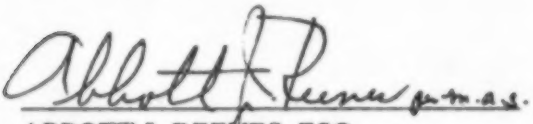
Petitioner was given a hearing in state court on his Fourth Amendment claim. The bar of ***Stone vs. Powell*** applies despite a state court error as to the merits of a defendant's Fourth Amendment claim. ***Swicegood vs. Alabama,*** 577 F. 2d 1322, 1324-25 (5th Cir. 1978). It further applies despite state court procedural error which thwarts presentation of Fourth Amendment claims. ***Williams vs. Brown,*** 609 F.2d 216 (5th Cir. 1980). ***Stone vs. Powell*** bars relitigation of a Fourth Amendment claim even where the state court is squarely faced with the constitutional claim but chooses to resolve that claim on an independent, adequate, non-federal state ground at least where that state ground does not unduly burden federal rights. ***O' Berry vs. Wainwright,*** 546 F.2d 1204 (5th Cir. 1977), cert. denied, 433 U. S. 911, 97 S. Ct. 2981, 53 L. Ed 2d 1096 (1977). Because petitioner has not asserted that the processes provided by the state to fully and fairly litigate Fourth Amendment claims are routinely or systematically applied in such a way as to prevent actual litigation of such claims on their merits, and because petitioner's claim actually was litigated on the merits, petitioner's allegation is without merit.

CONCLUSION

The law as stated above and the facts as indicated above lead to the conclusion that the petitioner's petition for writ of certiorari should be denied.

Respectfully submitted,

JOHN M. MAMOULIDES
DISTRICT ATTORNEY
PARISH OF JEFFERSON



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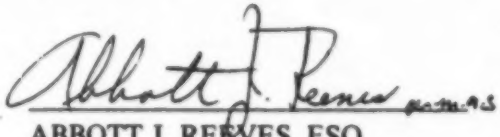
CERTIFICATE OF SERVICE

I, ABBOTT J. REEVES, ESQ., a member of the Bar of the Supreme Court of the United States, hereby certify that three copies of the foregoing Brief in Opposition to Petition for Writ of Certiorari were served on Petitioner by mailing copies thereof in a duly addressed envelope to Hugh G. Oliver, Esq., P.O. Box 511, 528 Fourth Street, Westwego, Louisiana, 70094 on this 14th day of January, 1982.

I further certify that all parties required to be served have been served.



ABBOTT J. REEVES, ESQ.